

CHAPTER 9
ORDERLY CONDUCT

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- 9.19 Penalty

9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

The

following statutes following the prefix "9" defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Village, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under sec. 25.04 of this Code.

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| 9.346.935 | Drinking in Motor Vehicles on Highway |
| 9.940.20 | Battery |
| 9.940.34 | Duty to Aid Endangered Crime Victim |
| 9.941.01 | Negligent Operation of Vehicle |
| 9.941.03 | Highway Obstruction |
| 9.941.10 | Negligent Handling of Burning Materials |
| 9.941.12 | Interfering With or Failing to Assist in Fire Fighting |
| 9.941.13 | False Alarms and Interference with Fire Fighting |
| 9.941.20 | Reckless Use of Weapon |
| 9.941.21 | Disarming a Police Officer Prohibited |
| 9.941.23 | Carrying Concealed Weapon |
| 9.941.24 | Possession of Switch Blade Knife |
| 9.941.37 | Obstruction of Emergency Vehicles Prohibited |
| 9.943.01(l) | Criminal Damage to Property (Less Than \$200) |
| 9.943.06 | Molotov Cocktails |
| 9.943.13 | Criminal Trespass to Land |
| 9.943.14 | Criminal Trespass to Dwellings |
| 9.943.15 | Entry Onto a Construction Site |
| 9.943.20 | Theft (Less Than \$100) |
| 9.943.24 | Issue of Worthless Checks |
| 9.943.50 | Shoplifting |
| 9.944.20 | Lewd and Lascivious Behavior |
| 9.944.23 | Making Lewd, Obscene or Indecent Drawings |
| 9.944.30 | Prostitution |
| 9.944.31 | Patronizing Prostitutes |
| 9.944.33 | Pandering |
| 9.944.34 | Keeping Place of Prostitution |
| 9.945.02 | Gambling |
| 9.946.40 | Refusing to Aid Officer |
| 9.946.41 | Resisting or Obstructing Officer |
| 9.946.42 | Escape |
| 9.946.44 | Assisting or Permitting Escape |
| 9.946.65 | Obstructing Justice |
| 9.946.70 | Personating Peace Officer |

- 9.946.72 Tampering with Public Records and Notices
- 9.947.01 Disorderly Conduct
- 9.947.013 Harassment Prohibited
- 9.947.015 Bomb Scares
- 9.947.047 Littering Shores
- 9.947.06 Unlawful Assemblies
- 9.948.01-.16 Crimes Against Animals

9.02 FIREARMS AND OTHER DANGEROUS WEAPONS REGULATED.

(1) DEFINITIONS.

(a) Firearm. A weapon which expels a missile by the explosive force of gunpowder, compressed air or compressed gas.

(b) Other Dangerous Weapon. Includes bow and arrow, crossbow, sling shot, blow gun, brass knuckles, bowie-type knife, switchblade knife and other similar weapons.

(2) USE OF FIREARMS AND OTHER DANGEROUS WEAPONS PROHIBITED. No person shall have in his possession, except within his own domicile, or carry, use or discharge any firearm or other dangerous weapon within the Village.

(3) EXCEPTIONS. The prohibitions of sub. (2) above shall not apply to the following:

- (a) Licensed shooting galleries and ranges.
- (b) Law enforcement officers properly discharging their duties.
- (c) Any weapon unloaded and properly encased.

9.03 POSSESSION OF FIREARMS IN PUBLIC PLACES PROHIBITED. No person, except duly authorized city, village, county, State or Federal law enforcement officers specifically authorized by law to carry firearms and, as permitted in sub. 9.02(3) above, shall possess a firearm while in any public building or on public land within the Village. No person shall possess a firearm while in any public place within the Village unless written consent to so possess a firearm has been given by the owner or lessee of such public place, and such possession is not contrary to §440.26, Wis. Stats.

(l) DEFINITIONS. For the purpose of this section, the following definitions apply:

- (a) Firearm. See sec. 9.02(l) of this chapter.

(b) Public Building. Any building, including the grounds thereof, owned by the Village, Sauk County, or the Baraboo School District.

(c) Public Land. Any land owned by the Village, Sauk County, or the Baraboo School District.

(d) Public Place. Any privately owned building which is open to the public.

(2) ENFORCEMENT. A police officer finding a person possessing a firearm in violation of this section shall immediately take possession of such firearm and retain it as evidence.

9.04 MARIJUANA, POSSESSION AND USE PROHIBITED.

(1) DEFINITION. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

(2) POSSESSION, DELIVERY AND USE PROHIBITED. It shall be unlawful for any person to possess, deliver, sell or use marijuana or a marijuana derivative. This section shall include, but not be limited to, those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.

(3) EXCEPTION. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.

9.05 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED. No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village.

9.06 SALE AND USE OF FIREWORKS REGULATED.

(1) DEFINITION. The definition of "fireworks" stated in §167.10(1), Wis. Stats., is hereby adopted by reference.

(2) SALE REGULATED. Except as provided in §167.10(2) and (4), Wis. Stats., no person shall sell, or possess with the intent to sell, fireworks.

(3) USE REGULATED. Except as provided in §167.10(3), Wis. Stats., no person shall possess or use fireworks without a user's permit issued pursuant to sub. (4) below.

(4) USER'S PERMIT. As provided in §167.10(3), Wis. Stats., fireworks user's permits may be issued by the Village President or other Village official designated by the Village President. The official issuing the permit shall require a certificate of liability insurance, or other similar proof of coverage, in an amount he deems necessary. A copy of the permit and proof of insurance shall be filed with the Clerk-Treasurer and copies of the permit shall be given to the Fire Chief at least 2 days before the authorized use.

(5) USE OF CERTAIN DEVICES REGULATED. No person may use fireworks or devices listed in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats., including, but not limited to, caps, toy snakes, model rocket engines, sparklers or cone fountains at a fireworks display for which a permit has been issued if the display is open to the general public.

(6) USE OF CERTAIN DEVICES PROHIBITED ON SCHOOL GROUNDS. Except as provided in (4) above, no person may use those fireworks or devices described in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats., on any property of the School District of Baraboo or the sidewalks, streets or public right of way immediately abutting said property. This prohibition includes, but is not limited to caps, toy snakes, sparklers and cone fountains.

9.07 TRAPPING PROHIBITED. No person shall set any trap, as defined in §29.01(13), Wis. Stats., on Village-owned land.

9.08 LOUD AND UNNECESSARY NOISE PROHIBITED.

(1) GENERALLY. No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(2) PUBLIC ADDRESS SYSTEMS AND AMPLIFIERS. No person shall use or operate any P.A. system, amplifier or device which increases the volume of voice, music or other sounds so loud as to disturb the public peace or the quiet and peacefulness of the neighborhood.

(3) COMPRESSION BRAKES PROHIBITED. Use of brakes which are activated by the compression of the engine (compression brakes, e.g., "jake brake" or Jacobs brake) within the Village limits is prohibited, except in the event of an emergency.

(4) CONSTRUCTION AND MACHINERY NOISE. Between the hours of 10:00 p.m. and 6:00 a.m., no person shall do construction work, or operate garbage or refuse dumpster pick up machinery, or operate any chainsaw, lawnmower or any other loud machinery of a similar nature. This subsection shall not apply to equipment or machinery being used for snow removal purposes or for emergency removal of debris caused by accident, weather conditions or other act of God.

9.09. LOITERING PROHIBITED.

(1) LOITERING OR PROWLING. No person shall loiter or prowl in a place at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(2) OBSTRUCTION OF HIGHWAY BY LOITERING. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

(3) OBSTRUCTION OF TRAFFIC BY LOITERING. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.

(4) LOITERING AFTER BEING REQUESTED TO MOVE. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private

premises without invitation from the owner or occupant after being requested to move by any police officer or by any person in authority in such places.

(5) LOITERING IN PUBLIC PLACES. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by the owner or person in charge or any police officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(6) LOITERING IN OR ON SCHOOL PROPERTY. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand or play in or on any school property within the Village between 7:00 A.M. and 4:00 P.M. on official school days.

9.10 ANIMALS AND POULTRY NOT TO RUN AT LARGE. No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the Village. "At large" means an animal is off the premises of its owner and upon any public street or alley, school grounds, public park or other public grounds or upon any private property without the permission of the owner of the property.

9.11 KEEPING OF LIVESTOCK AND POULTRY REGULATED. No person shall keep or maintain any livestock such as horses, cattle, sheep or goats, or poultry or fowl, including pigeons, in the Village, except upon operating farms and the livestock sales barn.

9.12 STORAGE OF JUNK PROHIBITED. No person, except a junk dealer licensed under ch. 12 of this Code, shall accumulate, store or allow any junk or junked vehicle, as defined in sec. 10.06 of this Code, outside of any building or any real estate located within the Village.

9.13 LITTERING PROHIBITED. No person shall deposit any mud, glass, refuse or waste, filth or other litter upon the streets, highways, alleys, parks or other property of the Village or upon any private property or into or upon any body of water or stream within the Village. Any person found guilty of violating this section shall be subject to a forfeiture of not more than \$200 plus the cost of cleanup. Each day a violation continues shall constitute a separate violation.

9.14 BURNING OF GRASS AND TRASH RESTRICTED. [9.14 repealed and recreated 9/11/02, Ordinance No. 02-004.]

9.14 REGULATION OF OPEN BURNING.

(1) DEFINITIONS.

- (a) "Burning" shall mean the kindling or maintaining of a fire that has hot ashes or cinders or is giving heat, or still glowing or giving light, or a fire that is still smoldering or giving off smoke, or a fire that has not been completely extinguished.
- (b) "Open burning" shall mean burning done outside of a Building.
- (c) "Recreational fires" and "cooking fires" shall mean open burning for outdoor recreation and/or cooking purposes in an enclosure designed specifically for ember and flame containment, excluding a barrel, such as rocked-in pits, fireplaces, or barbecue grills which use only charcoal, propane gas or dry, untreated and unpainted wood as the burning material, and which satisfy the conditions set for the in subs (3).
- (d) "Bonfire" shall mean a large, open fire kindled and maintained to mark a public event, celebration or similar occurrence, which only uses dry, untreated and unpainted wood as the burning material. A fire permit from the Fire Department is required for a bonfire.

(2) CONDITIONS OF PERMITTED OPEN BURNING. Except as permitted in sub. (3) no person shall kindle or maintain any open burning unless such open burning complies with the conditions set for the in this subsection:

- (a) The hours of open burning shall be restricted to even calendar days during the hours between 8 a.m. and 10 p.m., unless otherwise expressly authorized by the Fire Department. During all other hours and times, all burning authorized under subsection (2) shall be completely extinguished.
- (b) No burning shall be kindled or maintained during periods when either the Fire Inspector or the Wisconsin Department of Natural Resources has issued a burning ban.
- (c) Only dry grass, leaves, garden vegetative matter, brush and untreated and unpainted wood which is suitable for burning shall be used as the burning material, except permitted bonfires shall only use dry, untreated and unpainted wood as the burning material.

- (d) No burning shall be kindled or maintained on or within any street, sidewalk, treebank, alley, parking lot, drainage ditch, park, public place or public right-of-way, unless otherwise expressly authorized by the Fire Department.
- (e) The fuel for igniting such burning shall consist of dry material or commercially available products designed for lighting fires.
- (f) All such burning shall be constantly supervised and personally attended by a responsible adult until the fire is completely extinguished. The person in charge of the fire shall have fire extinguishing equipment or materials available at all times and easily accessible for immediate use.
- (g) Burning, under this subsection, shall not be kindled or maintained in a barrel.
- (h) Whenever burning is undertaken in a pile, the maximum size of the burning materials shall be four feet in diameter, measured horizontally, and three feet measured vertically, and the pile of material being burned shall be at least 15 feet away from any combustible material, combustible wall or partition, exterior window opening, exit, access or exit unless otherwise expressly authorized by the Fire Inspector or Director of Public Works.
- (i) No burning shall be maintained so that flames exceed 4 feet in height.
- (j) No burning shall be kindled or maintained so as to cause a public nuisance prohibited by Chapter 10 of the Code.
- (k) All such burning shall be conducted on a non-combustible surface.

(3) REGULATION OF RECREATION FIRES AND COOKING FIRES. Recreational fires and cooking fires shall be exempt from the conditions set forth in subs. (2), provided, however, recreational fires and cooking fires shall comply with each of the following conditions:

- (a) Burning, under this subsection, shall not be kindled or maintained in a barrel.

- (b) No burning shall be kindled or maintained on or within any street, sidewalk, treebank, alley, or parking lot, drainage ditch or public right-of-way.
- (c) No burning shall be maintained such that the flames exceed 4 feet in height.
- (d) No burning shall be maintained so as to cause a public nuisance prohibited by Chapter 10 of the Code.
- (e) Except for barbecue, gas, and charcoal grills, any other burning receptacle, enclosure or pit shall be no greater than 30 inches in diameter at its greatest width.
- (f) All such burning shall be constantly supervised and personally attended by a responsible adult until the fire is completely extinguished. The person in charge of the fire shall have fire extinguishing equipment or materials available at all times and easily accessible for immediate use.
- (g) Except for barbecue, gas, and charcoal grills, no burning shall be kindled or maintained during periods when either the Fire Inspector or the Wisconsin Department of Natural Resources has issued a burning ban.
- (h) Whenever a portable fireplace or grill is located on a combustible surface, such as a wooden patio or deck, a non-combustible material shall be placed under and around the fireplace or grill for a distance of at least 24 inches on each side thereof.
- (i) Except for barbecue, gas, and charcoal grills, no such burning shall be undertaken within 15 feet away from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Department.
- (j) Regardless of type or size, there shall be no grills stored or used on balconies above the first floor in buildings with three or more living units.

(4) **BONFIRES REGULATED.** No person shall kindle or maintain any bonfire without first obtaining a permit from the Village Clerk and each such permit shall be

subject to the conditions established by the Fire Inspector. An administrative fee of \$25 shall be charged for a bonfire permit issued by the Village Clerk.

(5) BURNING OF CERTAIN MATERIALS PROHIBITED. No person shall kindle or maintain open burning where the burning material is recyclable paper products, recyclable cardboard, rubbish, garbage, trash, refuse, painted wood, pressure treated lumber, and/or any material made of in whole or in part or coated with rubber, plastic, leather or petroleum based materials, and/or products containing flammable materials.

(6) EXCEPTIONS TO BURNING REGULATIONS. The following fires shall be exempt from the provisions of subs. (2) and (3):

- (a) Fires conducted inside of a building, including, but not limited to fireplaces and incinerators.
- (b) Fires conducted to remove frost from the ground by public utility companies, City employees, cemeteries, and building contractors.
- (c) Small open flames for welding, acetylene torches, safety flares, heating tar or similar applications.
- (d) Fires conducted for training or instruction of fire fighters by a Fire Department or for the testing of fire equipment by a Fire Department.
- (e) Any fire expressly authorized in writing by the Fire Inspector or Director of Public Works.

(7) EMERGENCY REGULATIONS. The Fire Inspector may, when necessary, declare an "Emergency Condition of Fire Hazard" for a specified period of time and, during such time, no burning shall be permitted unless done or controlled by a Fire Department. In addition, during such declared fire emergency period, the Fire Inspector may prohibit the use of the following:

- (a) Fireworks as defined by §167.10(1), Wis. Stats.
- (b) Any of the items included under §167.10(1)(e), (f), (i), (j), (k), (l), (m), and (n), Wis. Stats.
- (c) Any other device that may pose a fire hazard.

(8) **ENFORCEMENT.** The Fire Inspector and the Director of Public Works shall be authorized to enforce the provisions of this Section.

(9) **SEVERABILITY.** If any Section, Subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other Section, Subsection, sentence, clause or phrase or portion thereof, and to this extent, the provision of this Ordinance shall be severable.

9.15 **OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.** No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

9.16 **ABANDONED OR UNATTENDED ICEBOXES, ETC., PROHIBITED.** No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock, or other locking device which may not be released from the inside, without first removing such door or lid, snap lock or other locking device from such icebox, refrigerator or container unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

9.17 **NOTE:**

9.18 **UNIFORM CITATION METHOD ADOPTED.**

(1) **CREATION.** The citation shall contain the following:

- (a) The name and address of the alleged violator.
- (b) Factual allegations describing the alleged violation.
- (c) The time and place of the offense.
- (d) The section of the ordinance or this Code violated.

(e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.

(f) The time at which the alleged violator may appear in court.

(g) A statement which, in essence, informs the alleged violator, as follows:

1. That a cash deposit of a specified amount may be made which shall be delivered or mailed to the Clerk of Courts prior to the time of the scheduled court appearance.

2. That if such a deposit is made, the alleged violator need not appear in court unless he is subsequently summoned.

3. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by §165.87, Wis. Stats., not to exceed

the amount of the deposit or, if the court does not accept the plea of no contest, a summons will be issued demanding him to appear in court to answer the complaint.

4. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture and the penalty assessment imposed by §165.87, Wis. Stats.

(h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under par. (g) above has been read. Such statement shall be sent or brought with the cash receipt.

(i) Such other information as the Village Board deems necessary.

(2) DEPOSITS.

(a) Each citation issued under this section, except those to which par. (d) below applies, shall specify a cash deposit as set forth in the Village of West Baraboo Bond Schedule which consists of the appropriate forfeiture, a penalty assessment of 15% and court costs of \$10. The said Village of West Baraboo Bond Schedule is hereby adopted by reference and made a part hereof.

(b) Deposits shall be made in cash, money order or check to the Clerk of Courts, who shall provide a receipt therefor.

(c) The 15% penalty assessment imposed by §165.87, Wis. Stats., shall be added to all forfeitures hereunder, except where said forfeitures derive from citations issued for violations of ordinances for which State law controls or of ordinances involving nonmoving traffic violations. Said assessments shall be in an amount determined after deducting the court costs.

(d) The deposit, including costs, pertaining to any minor receiving a citation under this section shall in no event exceed \$25 plus costs and the penalty assessment imposed by §165.87, Wis. Stats., except that costs and penalties shall not be assessed against minors unless Wisconsin law so provides.

(4) ISSUANCE OF CITATION.

(a) Law Enforcement Officers. Any law enforcement or peace officer may issue citations authorized under this section.

(b) Other Village Officials. The Building Inspector, the Director of Public Works and the Village Fire Inspector may issue citations with respect to those specified sections of this Code which are directly related to his respective official responsibility.

(5) PROCEDURE. Section 66.199(3), Wis. Stats., relating to a violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(6) NON-EXCLUSIVITY.

(a) Other Ordinances. Adoption of this section does not preclude the Village Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) Other Remedies. The issuance of a citation hereunder shall not preclude the Village or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

9.19 PENALTY. Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in sec. 25.04 of this Code. In addition to any penalty imposed for violation of §9.943.01(1) of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated

minor child who violates §9.943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with §895.35, Wis. Stats.